



## **DEPARTMENT OF COMMERCE**

### **National Oceanic and Atmospheric Administration**

#### **50 CFR Part 648**

**[Docket No.: 220325-0078]**

**RIN 0648-BL13**

### **Fisheries of the Northeastern United States; Framework Adjustment 34 to the Atlantic Sea Scallop Fishery Management Plan**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Final rule.

**SUMMARY:** NMFS approves and implements the measures included in Framework Adjustment 34 to the Atlantic Sea Scallop Fishery Management Plan as adopted and submitted by the New England Fishery Management Council. Framework 34 establishes scallop specifications and other measures for fishing years 2022 and 2023. This action incorporates the new specifications-setting methodology and other changes developed in Amendment 21 to the Atlantic Sea Scallop Fishery Management Plan into the fishing year 2022 specifications. In addition, Framework 34 implements measures to protect small scallops, promote scallop recruitment in the mid-Atlantic, and reduce bycatch of flatfish. This final rule addresses regulatory text that is unnecessary, outdated, or unclear. This action is necessary to prevent overfishing and improve both yield-per-recruit and the overall management of the Atlantic sea scallop resource.

**DATES:** Effective April 1, 2022, except for amendatory instruction 7 (removing and reserving § 648.60(a)), which is effective May 31, 2022.

**ADDRESSES:** The Council has prepared an Environmental Assessment (EA) for this action that describes the measures contained in Framework Adjustment 34 to the Atlantic Sea Scallop

Fishery Management Plan (FMP) and other considered alternatives and analyzes the impacts of these measures and alternatives. The Council submitted Framework 34 to NMFS that includes the EA, a description of the Council's preferred alternatives, the Council's rationale for selecting each alternative, and a Regulatory Impact Review (RIR). Copies of supporting documents used by the New England Fishery Management Council, including the EA and RIR, are available from: Thomas A. Nies, Executive Director, New England Fishery Management Council, 50 Water Street, Newburyport, MA 01950 and accessible via the internet in documents available at: <https://www.nefmc.org/library/framework-34-1>.

**FOR FURTHER INFORMATION CONTACT:** Travis Ford, Fishery Policy Analyst, (978) 281-9233.

**SUPPLEMENTARY INFORMATION:**

**Background**

The New England Fishery Management Council adopted Framework 34 to the Atlantic Sea Scallop FMP on December 9, 2021. The Council submitted Framework 34, including an EA, for NMFS approval on March 10, 2022. NMFS published a proposed rule for Framework 34 on February 15, 2022 (87 FR 8543). To help ensure that the final rule would be implemented before the start of the fishing year on April 1, 2022, the proposed rule included a 15-day public comment period that closed on March 2, 2022.

On January 12, 2022, NMFS published Amendment 21 to the Atlantic Sea Scallop FMP (87 FR 1688). Amendment 21 makes several changes to the management, including specifications-setting methodology, of the Northern Gulf of Maine (NGOM) and limited access general category (LAGC) individual fishing quota (IFQ) components. Framework 34 incorporates these new specifications-setting methodology and other changes developed in Amendment 21 into the fishing year 2022 specifications.

NMFS has approved all of the measures in Framework 34 recommended by the Council, as described below. This final rule implements Framework 34, which sets scallop specifications

and other measures for fishing years 2022 and 2023, including changes to the catch, effort, and quota allocations and adjustments to the rotational area management program for fishing year 2022, measures to reduce bycatch of flatfish, and default specifications for fishing year 2023. The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) allows NMFS to approve, partially approve, or disapprove measures proposed by the Council based on whether the measures are consistent with the FMP, the Magnuson-Stevens Act and its National Standards, and other applicable law. NMFS generally defers to the Council's policy choices unless there is a clear inconsistency with the law or the FMP. Details concerning the development of these measures were contained in the preamble of the proposed rule and are not repeated here. This final rule also addresses regulatory text that is unnecessary, outdated, or unclear consistent with section 305(d) of the Magnuson-Stevens Act.

*Specification of Scallop Overfishing Limit (OFL), Acceptable Biological Catch (ABC), Annual Catch Limits (ACL), Annual Catch Targets (ACT), Annual Projected Landings (APL) and Set-Asides for the 2022 Fishing Year, and Default Specifications for Fishing Year 2023*

The Council set the OFL based on a fishing mortality (F) of 0.61, equivalent to the F threshold updated through the Northeast Fisheries Science Center's most recent scallop benchmark stock assessment that was completed in September 2020. The ABC and the equivalent total ACL for each fishing year are based on an F of 0.45, which is the F associated with a 25-percent probability of exceeding the OFL. The Council's Scientific and Statistical Committee (SSC) recommended scallop fishery ABCs of 56.7 million lb (25,724 mt) for 2022 and 51.1 million lb (23,200 mt) for the 2023 fishing year, after accounting for discards and incidental mortality. The SSC will reevaluate and potentially adjust the ABC for 2023 when the Council develops the next framework adjustment.

Table 1 outlines the scallop fishery catch limits.

**Table 1--Scallop Catch Limits (mt) for Fishing Years 2022 and 2023 for the Limited Access and LAGC IFQ Fleets**

Catch Limits	2022 (mt)	2023 (mt) <sup>1</sup>
ABC/ACL (discards removed)	25,724	23,200
Incidental Landings	23	23
RSA	578	578
Observer Set-Aside	257	232
ACL for fishery	24,865	22,367
Limited Access ACL	23,498	21,137
LAGC Total ACL	1,368	1,230
LAGC IFQ ACL (5 percent of ACL)	1,243	1,118
Limited Access with LAGC IFQ ACL (0.5 percent of ACL)	124	112
Limited Access ACT	20,365	18,318
NGOM Set-Aside	282	221
APL (after set-asides removed)	14,251	(1)
Limited Access APL (94.5 percent of APL)	13,467	(1)
Total IFQ Annual Allocation (5.5 percent of APL) <sup>2</sup>	784	588
LAGC IFQ Annual Allocation (5 percent of APL) <sup>2</sup>	713	534
Limited Access with LAGC IFQ Annual Allocation (0.5 percent of APL) <sup>2</sup>	71	53
ABC/ACL (discards removed)	25,724	23,200

<sup>1</sup> The catch limits for the 2023 fishing year are subject to change through a future specifications action or framework adjustment. This includes the setting of an APL for 2023 that will be based on the 2022 annual scallop surveys.

<sup>2</sup> As a precautionary measure, the 2023 IFQ and annual allocations are set at 75 percent of the 2022 IFQ Annual Allocations.

This action deducts 1.275 million lb (578 mt) of scallops annually for 2022 and 2023 from the ABC for use as the Scallop RSA to fund scallop research. Participating vessels are compensated through the sale of scallops harvested under RSA projects. Of the 1.275 million lb (578 mt) allocation, NMFS has already allocated 153,834 lb (69,778 kg) to previously-funded multi-year projects as part of the 2021 RSA awards process. NMFS reviewed proposals submitted for consideration of 2022 RSA awards and announced project selections on March 16, 2022. Details on the 2022 RSA awards can be found on our website here:

*<https://www.fisheries.noaa.gov/new-england-mid-atlantic/science-data/sea-scallop-research-set-aside-projects-selected-2022-2023>*

This action also deducts 1 percent of the ABC for the industry-funded observer program to help defray the cost to scallop vessels that carry an observer. The observer set-aside is 257 mt for 2022 and 232 mt for 2023. The Council may adjust the 2023 observer set-aside when it develops specific, non-default measures for 2023. In fishing year 2022, the compensation rates for limited access vessels in open areas fishing under days-at-sea (DAS) is 0.08 DAS per DAS fished. For access area trips, the compensation rate is 200 lb (90.7 kg), in addition to the vessel's possession limit for the trip for each day or part of a day an observer is onboard.

For LAGC IFQ trips less than 24 hours, a vessel will be able to harvest the trip limit and the daily compensation rate on the observed trip, or the vessel could harvest any unfished compensation on a subsequent trip while adhering to the commercial possession limit. LAGC IFQ vessels may possess an additional 200 lb (90.7 kg) per trip on trips less than 24 hours when carrying an observer.

Amendment 21 made LAGC IFQ vessels eligible for additional compensation when carrying an observer on board and fishing trips longer than 24 hours. For fishing year 2022, the daily compensation rate of 200 lb (90.7 kg) will be prorated at 12-hour increments for trips exceeding 24 hours. The amount of compensation a vessel could receive on 1 trip would be capped at 2 days (48 hours) and vessels fishing longer than 48 hours will not receive additional compensation allocation. For example, if the observer compensation rate is 200 lb/day (90.7 kg/day) and an LAGC IFQ vessel carrying an observer departs on July 1 at 2200 and lands on July 3 at 0100, the length of the trip would equal 27 hours, or 1 day and 3 hours. In this example, the LAGC IFQ vessel would be eligible for 1 day plus 12 hours of compensation allocation, *i.e.*, 300 lb (136 kg).

Amendment 21 also expanded the scallop industry-funded observer program to monitor directed scallop fishing in the NGOM by using a portion of the NGOM allocation to off-set

monitoring costs. For NGOM trips, a vessel will be able to harvest the trip limit and the daily compensation rate on the observed trip. NGOM vessels may possess an additional 125 lb (56.7 kg) per trip when carrying an observer.

NMFS may adjust the compensation rate throughout the fishing year, depending on how quickly the fleets are using the set aside. The Council may adjust the 2023 observer set-aside when it develops specific, non-default measures for 2023.

#### *Open Area Days-at-Sea (DAS) Allocations*

This action implements vessel-specific DAS allocations for each of the three limited access scallop DAS permit categories (*i.e.*, full-time, part-time, and occasional) for 2022 and 2023 (Table 2). The 2022 DAS allocations are the same as those allocated to the limited access fleet in 2021. Framework 34 sets 2023 DAS allocations at 75 percent of fishing year 2022 DAS allocations as a precautionary measure. This is to avoid over-allocating DAS to the fleet in the event that the 2023 specifications action is delayed past the start of the 2023 fishing year. The allocations in Table 2 exclude any DAS deductions that are required if the limited access scallop fleet exceeds its 2021 sub-ACL.

**Table 2--Scallop Open Area DAS Allocations for 2022 and 2023**

Permit Category	2022	2023 (Default)
Full-Time	24.00	18.00
Part-Time	9.60	7.20
Occasional	2.00	1.50

#### *Changes to Fishing Year 2022 Sea Scallop Access Area Boundaries*

For fishing year 2022 and the start of 2023, Framework 34 keeps Nantucket Lightship-South-Deep Access Area (NLS-S-D), Closed Area II (CAII), and Closed Area I Access Area (CAI) open as access areas. However, Framework 34 does not allocate any additional landings from CAI for the limited access fleet (see below).

#### *Fishing Year 2022 Sea Scallop Closed Area Boundaries*

Framework 34 keeps the Closed Area II-East (CAII-E) Closed Area closed to scallop fishing. This action also closes the New York Bight Scallop Rotational Area (Table 3) to scallop fishing to optimize growth of the several scallop year classes within the closure area and to support scallop fishing in years following the 2022 fishing year.

**Table 3—New York Bight Scallop Closed Area**

Point	N latitude	W longitude
NYB1	40°00'	73°20'
NYB2	40°00'	72°30'
NYB3	39°20'	72°30'
NYB4	39°20'	73°20'
NYB1	40°00'	73°20'

This action also closes the Nantucket Lightship-West (NLSW) Scallop Rotational Area (Table 4). The Council is closing this area to support the growth of this year class of small scallops in the absence of fishing pressure.

**Table 4--Nantucket Lightship-West Scallop Closed Area**

Point	N latitude	W longitude
NLSW1	40°43.44'	70° 20'
NLSW2	40°43.44'	70° 00'
NLSW3	40° 43.44'	69° 30'
NLSW4	40° 20'	69° 30'
NLSW5	40° 20'	70° 00'
NLSW6	40° 26.63'	70° 20'
NLSW1	40°43.44'	70° 20'

#### *Mid-Atlantic Scallop Rotational Area Reverting to Open Area*

Framework 34 reverts the Mid-Atlantic Scallop Rotational Area (MAAA) to part of the open area. This area was previously managed as part of the area rotation program, but it no longer meets the criteria for either closure or controlled access. This area will become part of the open area and could be fished as part of the DAS program or on LAGC IFQ trips. Because

fishing year 2021 carryover access area fishing will continue in the MAAA until May 30, 2022, this area would not revert to open area until May 31, 2022.

#### *Stellwagen Bank Scallop Rotational Area Reverting to NGOM Area*

Framework 34 reverts the Stellwagen Bank Scallop Rotational Area to part of the NGOM. This area was closed in 2020 to protect a substantial number of small scallops. Framework 34 opens this area to NGOM fishing because those small scallops have now recruited into the fishery.

#### *Full-Time Limited Access Allocations and Trip Possession Limits for Scallop Access Areas*

Table 5 provides the limited access full-time allocations for all of the access areas for the 2022 fishing year and the first 60 days of the 2023 fishing year. These allocations could be landed in as many trips as needed, so long as vessels do not exceed the possession limit (also in Table 5) on any one trip.

**Table 5--Scallop Access Area Full-Time Limited Access Vessel Poundage Allocations and Trip Possession Limits for 2022 and 2023**

Rotational access area	Scallop possession limit	2022 Scallop allocation	2023 Scallop allocation (default)
Closed Area II	15,000 lb (6,804 kg) per trip	30,000 lb (13,608 kg)	15,000 lb (6,804 kg)
Nantucket Lightship-South-Deep	15,000 lb (6,804 kg) per trip	15,000 lb (6,804 kg)	0 lb (0 kg)
Total		45,000 lb (20,412 kg)	15,000 lb (6,804 kg)

#### *Changes to the Full-Time Limited Access Vessels' One-for-One Access Area Allocation*

##### *Exchanges*

Framework 34 allows full-time limited access vessels to exchange access area allocation in 7,500-lb (3,402-kg) increments. The owner of a vessel issued a full-time limited access scallop permit is able to exchange unharvested scallop pounds allocated into an access area for another full-time limited access vessel's unharvested scallop pounds allocated into another access area. For example, a full-time vessel may exchange 7,500 lb (3,402 kg) from one access area for 7,500 lb (3,402 kg) allocated to another full-time vessel for another access area. Further, a full-

time vessel may exchange 15,000 lb (6,804 kg) from one access area for 15,000 lb (6,804 kg) allocated to another full-time vessel for another access area. One-for-one access area allocations for part-time limited access vessels must occur in the increments of a possession limit, *i.e.*, 9,000 lb (4,082 kg).

*Part-Time Limited Access Allocations and Trip Possession Limits for Scallop Access Areas*

Table 6 provides the limited access part-time allocations for all of the access areas for the 2022 fishing year and the first 60 days of the 2023 fishing year. These allocations could be landed in as many trips as needed, so long as the vessels do not exceed the possession limit (also in Table 6) on any one trip.

**Table 6--Scallop Access Area Part-Time Limited Access Vessel Poundage Allocations and Trip Possession Limits for 2022 and 2023**

Rotational access area	Scallop possession limit	2022 Scallop allocation	2023 Scallop allocation (default)
Closed Area II	9,000 lb (4,082 kg) per trip	9,000 lb (4,082 kg)	9,000 lb (4,082 kg)
Nantucket Lightship-South-Deep	9,000 lb (4,082 kg) per trip	9,000 lb (4,082 kg)	0 lb (0 kg)
Total		18,000 lb (8,165 kg)	9,000 lb (4,082 kg)

*Closed Area I Only for RSA and LAGC IFQ Trips*

Because of the limited amount of biomass in CAI to support a full limited access trip, Framework 34 will not allocate any landings from CAI to the limited access fleet. CAI will only be available for the LAGC access area trips and RSA compensation fishing.

*LAGC Measures*

1. *ACL and IFQ Allocation for LAGC Vessels with IFQ Permits.* For LAGC vessels with IFQ permits, this action implements a 1,368-mt ACL for 2022 and a 1,230-mt default ACL for 2023 (see Table 1). These sub-ACLs have no associated regulatory or management requirements but provide a ceiling on overall landings by the LAGC IFQ fleets. If the fleet were to reach this ceiling, any overages would be deducted from the following year's sub-ACL. The annual allocation to the LAGC IFQ-only fleet for fishing years 2022 and 2023 based on APL

would be 713 mt for 2022 and 534 mt for 2023 (see Table 1). Each vessel's IFQ would be calculated from these allocations based on APL.

2. *ACL and IFQ Allocation for Limited Access Scallop Vessels with IFQ Permits.* For limited access scallop vessels with IFQ permits, this action implements a 124-mt ACL for 2022 and a default 112-mt ACL for 2023 (see Table 1). These sub-ACLs have no associated regulatory or management requirements but provide a ceiling on overall landings by this fleet. If the fleet were to reach this ceiling, any overages would be deducted from the following year's sub-ACL. The annual allocation to limited access vessels with IFQ permits would be 71 mt for 2022 and 53 mt for 2023 (see Table 1). Each vessel's IFQ would be calculated from these allocations based on APL.

3. *LAGC IFQ Trip Allocations for Scallop Access Areas.* Framework 34 allocates LAGC IFQ vessels a fleet-wide number of trips in CAI and NLS-S-D for fishing year 2022 and default trips in the CAI for fishing year 2023 (see Table 7). The scallop catch associated with the total number of trips for all areas combined (1,071 trips) for fishing year 2022 is equivalent to the 5.5 percent of total projected catch from access areas.

**Table 7--Fishing Years 2022 and 2023 LAGC IFQ Trip Allocations for Scallop Access Areas**

Scallop access area	2022	2023 <sup>1</sup>
Closed Area I	714	357
Nantucket Lightship-South-Deep	357	0
Total	1,071	357

<sup>1</sup> The LAGC IFQ access area trip allocations for the 2023 fishing year are subject to change through a future specifications action or framework adjustment.

4. *NGOM Scallop Fishery Landing Limits.* This action implements total allowable landings (TAL) in the NGOM of 661,387 lb (300,000 kg) for fishing year 2022 and 504,384 (228,785 kg) default NGOM TAL for fishing year 2023. This action deducts 25,000 lb (11,340 kg) of scallops annually for 2022 and 2023 from the NGOM TAL to increase the overall Scallop RSA that funds scallop research. In addition, this action deducts 1 percent of the NGOM ABC

from the NGOM TAL for fishing years 2022 and 2023 to support the industry-funded observer program to help defray the cost to scallop vessels that carry an observer (Table 8).

Amendment 21 developed landing limits for all permit categories in the NGOM and established an 800,000-lb (362,874-kg) NGOM Set-Aside trigger for the NGOM directed fishery, with a sharing agreement for access by all permit categories for allocation above the trigger. Allocation above the trigger (*i.e.*, the NGOM APL) will be split 5 percent for the NGOM fleet and 95 percent for limited access and LAGC IFQ fleets. Framework 34 sets an NGOM Set-Aside of 621,307 lb (281,820 kg) for fishing year 2022 and a default NGOM Set-Aside of 465,980 lb (211,365 kg) for fishing year 2023. Because the NGOM Set-Aside for fishing years 2022 and 2023 is below the 800,000-lb (362,874-kg) trigger, Framework 34 does not allocate any landings to the NGOM APL. Table 8 describes the breakdown of the NGOM TAL for the 2022 and 2023 (default) fishing years.

**Table 8--NGOM Scallop Fishery Landing Limits for Fishing Year 2022 and 2023**

Landings Limits	2022	2023 <sup>(1)</sup>
NGOM TAL	661,387 lb (300,000 kg)	504,384 (228,785 kg)
1 percent NGOM ABC for Observers	15,080 lb (6,840 kg)	13,404 (6,080 kg)
RSA Contribution	25,000 lb (11,340 kg)	25,000 lb (11,340 kg)
NGOM Set-Aside	621,307 lb (281,820 kg)	465,980 lb (211,365 kg)
NGOM APL	0 lb (0 kg)	-

<sup>1</sup> The landings limits for the 2023 fishing year are subject to change through a future specifications action or framework adjustment.

*5. Scallop Incidental Landings Target TAL.* This action implements a 50,000-lb (22,680-kg) scallop incidental landings target TAL for fishing years 2022 and 2023 to account for mortality from vessels that catch scallops while fishing for other species and ensure that F targets are not exceeded. The Council and NMFS may adjust this target TAC in a future action if vessels catch more scallops under the incidental target TAC than predicted.

#### *RSA Harvest Restrictions*

This action allows vessels participating in RSA projects to harvest RSA compensation from the NLS-S-D, CAI, CAII and the open area. However, to reduce bycatch of flatfish on

Georges Bank, vessels may only harvest RSA compensation from Closed Area II from June 1, 2021, through August 14, 2021. All vessels are prohibited from harvesting RSA compensation pounds in all other access areas. Vessels are prohibited from fishing for RSA compensation in the NGOM unless the vessel is fishing an RSA compensation trip using NGOM RSA allocation that was awarded to an RSA project. Finally, Framework 34 prohibits the harvest of RSA from any access areas under default 2023 measures. At the start of 2023, RSA compensation may only be harvested from open areas. The Council will re-evaluate this default prohibition measure in the action that would set final 2023 specifications.

#### *Regulatory Corrections Under Regional Administrator Authority*

This rule includes four revisions to address regulatory text that is unnecessary, outdated, or unclear. In addition, this rule includes changes to regulatory text that would allow NMFS to implement measures developed in Amendment 21 to the Atlantic Sea Scallop FMP for fishing year 2022. Specifically, these changes would implement regulations that expand the scallop industry-funded observer program to monitor directed scallop fishing in the NGOM by using a portion of the NGOM allocation to off-set monitoring costs. These revisions are consistent with section 305(d) of the Magnuson-Stevens Act, which provides authority to the Secretary of Commerce to promulgate regulations necessary to ensure that amendments to an FMP are carried out in accordance with the FMP and the Magnuson-Stevens Act. The first revisions, at §§ 648.11(k)(1), (k)(2)(i) and (iii), (k)(5) introductory text, (k)(5)(i) introductory text, (k)(5)(i)(C), (k)(5)(ii), and (k)(6) and 648.52(h) make changes that require vessels fishing in the NGOM to participate in the observer program and allow vessels to possess the additional observer compensation allocation when carrying an observer. Amendment 21 expanded the scallop industry-funded observer program to monitor directed scallop fishing in the NGOM by using a portion of the NGOM allocation to off-set monitoring costs. The second revision at § 648.52(g) modified an example of an LAGC IFQ vessel exceeding the possession limit to defray the cost for observers to comport with the proration changes provided in Amendment 21. The third

revision at §§ 648.53(a)(7) and 648.62(a)(3) changes the term “scallop incidental catch” to “scallop incidental landings” to more accurately describe the catch limit. The fourth revision at § 648.53(b) clarifies that DAS allocations are determined by applying estimates of open area landings per unit effort projected through the specifications or framework adjustment processes used to set annual allocations and dividing that amount among vessels in the form of DAS calculated. Finally, in paragraphs § 648.59(a)(2) and (b)(3) the terms “scallop rotational closed area” and “scallop rotational access area” are added for consistency throughout the regulations.

### **Comments and Responses**

We received one comment in support of this action. However, while the individual supported the conservation objectives of the action, she expressed concern about the projected decline in revenue for the fleet. We have determined that the measures in Framework 34 are optimal for the fishery because they would minimize risks associated with stock biomass uncertainties while protecting small scallops for future harvest.

### *Changes from the Proposed Rule*

We made two changes from that proposed rule consistent with section 305(d) of the Magnuson-Stevens Act. First, we edited regulatory text at § 648.52(g) to update references to the observer set-aside and to clarify an example of an LAGC IFQ vessel retaining an allowance of scallops in addition to the possession limit to defray the cost for observers. Second, we added regulatory text at § 648.52(h) to clarify that a NGOM vessel with an observer on board may retain, per observed trip, an allowance of scallops in addition to the possession limit, as established by the Regional Administrator, to defray the cost of carrying an observer.

### **Classification**

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this final rule is consistent with the FMP, other provisions of the Magnuson-Stevens Act and other applicable law.

The Office of Management and Budget has determined that this rule is not significant pursuant to E.O. 12866.

This final rule does not contain policies with federalism or “takings” implications, as those terms are defined in E.O. 13132 and E.O. 12630, respectively.

This action does not contain any collection-of-information requirements subject to the Paperwork Reduction Act (PRA).

The Assistant Administrator for Fisheries has determined that the need to implement the measures of this rule in an expedited manner is necessary to achieve conservation objectives for the scallop fishery and certain fish stocks. This constitutes good cause, under authority contained in 5 U.S.C. 553(d)(3), to waive the 30-day delay in the date of effectiveness and to make the final Framework 34 measures effective on April 1, 2022.

The 2022 fishing year begins on April 1, 2022. If Framework 34 is delayed beyond April 1, certain default measures, including access area designations, DAS, IFQ, research set-aside and observer set-aside allocations, would automatically be put into place. Most of these default allocations were set more conservatively than what would be implemented under Framework 34. Under default measures, each full-time vessel has 18 DAS and one access area trip for 18,000 lb (8,165 kg) in the MAAA. However, Framework 34 will not allocate effort into the MAAA. Framework 34 has payback measures should a vessel harvest any of its default allocation in this area. Pursuant to 5 U.S.C. 553(d)(1), we waive the 30-day delay in effectiveness because this action relieves restrictions by providing full-time vessels with an additional 6 DAS (24 DAS total) and 27,000 lb (12,247 kg) in access area allocations (45,000 lb (20,412 kg) total). Further, LAGC IFQ vessels will receive an additional 72-mt (784-mt total) allocation and 500 access area trips spread out across 2 access areas (1,071 trips total). Accordingly, this action prevents more restrictive aspects of the default measures from going into place. Framework 34 could not have been put into place sooner to allow for a 30-day delayed effectiveness because the information and data necessary for the Council to develop the framework was not available in time for this

action to be forwarded to NMFS and implemented by April 1, 2022, the beginning of the scallop fishing year. Delaying the implementation of this action for 30 days would delay positive economic benefits to the scallop fleet and could negatively impact the access area rotation program by delaying fishing in access areas that should be available.

Pursuant to section 604 of the Regulatory Flexibility Act (RFA), NMFS has completed a final regulatory flexibility analysis (FRFA) in support of Framework 34. The FRFA incorporates the IRFA, a summary of the significant issues raised by public comments in response to the IRFA, NMFS responses to those comments, a summary of the analyses completed in the Framework 34 EA, and the preamble to this final rule. A summary of the IRFA was published in the proposed rule for this action and is not repeated here. A description of why this action was considered, the objectives of, and the legal basis for this rule is contained in Framework 34 and in the preambles to the proposed rule and this final rule and are not repeated here. All of the documents that constitute the FRFA are available from NMFS and/or the Council, and a copy of the IRFA, the RIR, and the EA are available upon request (see **ADDRESSES**).

*A Summary of the Significant Issues Raised by the Public in Response to the IRFA, a Summary of the Agency's Assessment of Such Issues, and a Statement of Any Changes Made in the Final Rule as a Result of Such Comments*

We received one comment from an individual who supported the conservation objectives of the action but expressed concern about the projected decline in revenue for the fleet. She did not directly reference the IRFA. We have determined that the measures in Framework 34 are optimal for the fishery because they would minimize risks associated with stock biomass uncertainties while protecting small scallops for future harvest.

*Description and Estimate of Number of Small Entities to Which the Rule Would Apply*

These regulations would apply to all vessels with limited access and LAGC scallop permits, and there would be economic impacts to small entities. Those impacts are described in detail in the draft of Framework 34, specifically, in the IRFA (Section 7.2) and in the Economic

and Social Impacts section (Section 6.6). Framework 34 (Section 5.6) provides extensive information on the number of vessels that are affected by this action, their home and principal state, dependency on the scallop fishery, and revenues and profits (see **ADDRESSES**). There were 316 vessels that held full-time limited access permits in 2020, including 250 dredge, 55 small-dredge, and 11 scallop trawl permits. In the same year, there were also 30 part-time limited access permits in the sea scallop fishery. No vessels were issued occasional scallop permits in 2020. In 2019, NMFS reported that there were a total of 300 IFQ-only permits, with 212 issued and 88 in Confirmation of Permit History. There were a total of 110 NGOM permits issued in 2019. About 102 of the IFQ vessels and 47 NGOM vessels actively fished for scallops in fishing year 2020. The remaining IFQ permit holders likely leased out scallop IFQ allocations with their permits in Confirmation of Permit History. Section 6.6 of Framework 34 provides extensive information on the number and size of vessels that would be affected by the proposed regulations, their home and principal state, dependency on the scallop fishery, and revenues and profits (see **ADDRESSES**).

For RFA purposes, NMFS defines a small business in a shellfish fishery as a firm that is independently owned and operated with receipts of less than \$11 million annually (see 50 CFR 200.2). Individually permitted vessels may hold permits for several fisheries, harvesting species of fish that are regulated by several different fishery management plans, even beyond those impacted by the proposed action. Furthermore, multiple permitted vessels and/or permits may be owned by entities affiliated by stock ownership, common management, identity of interest, contractual relationships, or economic dependency. For the purposes of this analysis, “ownership entities” are defined as those entities with common ownership as listed on the permit application. Only permits with identical ownership are categorized as an “ownership entity.” For example, if five permits have the same seven persons listed as co-owners on their permit applications, those seven persons would form one “ownership entity,” that holds those five

permits. If two of those seven owners also co-own additional vessels, that ownership arrangement would be considered a separate “ownership entity” for the purpose of this analysis.

On June 1 of each year, ownership entities are identified based on a list of all permits for the most recent complete calendar year. The current ownership dataset is based on the calendar year 2020 permits and contains average gross sales associated with those permits for calendar years 2018 through 2020. Matching the potentially impacted 2020 fishing year permits described above (limited access and LAGC IFQ) to calendar year 2020 ownership data results in 177 distinct ownership entities for the limited access fleet and 89 distinct ownership entities for the LAGC IFQ fleet. Based on the Small Business Administration guidelines, 170 of the limited access distinct ownership entities and 89 LAGC IFQ entities are categorized as small. Seven limited access entities and no LAGC IFQ entities are categorized as large entities. There were 44 distinct small business entities with NGOM permits in 2020 permits.

*Description of Projected Reporting, Recordkeeping, and other Compliance Requirements of the Final Rule*

This action contains no new collection-of-information, reporting, or recordkeeping requirements. This proposed rule does not require specific action on behalf of regulated entities other than to ensure they stay within the specifications that are set.

*Description of the Steps the Agency Has Taken to Minimize the Significant Economic Impact on Small Entities Consistent with the Stated Objectives of Applicable Statutes*

During the development of Framework 34, NMFS and the Council considered ways to reduce the regulatory burden on, and provide flexibility for, the regulated entities in this action. For instance, Framework 34 allows full-time limited access vessels to exchange access area allocation in 7,500-lb (3,402-kg) increments. This provides more flexibility to limited access vessel owners by allowing them to exchange partial trips to better fit their fishing practices. In addition, Framework 34 increases the opportunity for LAGC IFQ vessels to operate in access areas by allowing LAGC IFQ vessels to fish access area trips that would have been allocated to

Closed Area II (an offshore area difficult for the LAGC fleet access) in Closed Area I (an area closer to shore). This could have potentially slight positive impacts on the resource overall by spreading effort out and providing more access in areas with higher catch rates. It also could potentially reduce total area swept since the LAGC IFQ component would have the opportunity to fish on high densities of scallops in access areas. This is expected to help reduce fishing times and lower trips costs. Further, this is expected to limit steam time and lower overall trips costs across the entire LAGC IFQ component. Alternatives to the measures in this final rule are described in detail in Framework 34, which includes an EA, RIR, and IRFA (see **ADDRESSES**). The measures implemented by this final rule minimize the long-term economic impacts on small entities to the extent practicable. The only alternatives for the prescribed catch limits that were analyzed were those that met the legal requirements to implement effective conservation measures. Specifically, catch limits must be derived using SSC-approved scientific calculations based on the Scallop FMP. Moreover, the limited number of alternatives available for this action must also be evaluated in the context of an ever-changing FMP, as the Council has considered numerous alternatives to mitigating measures every fishing year in amendments and frameworks since the establishment of the FMP in 1982.

Overall, this rule minimizes adverse long-term impacts by ensuring that management measures and catch limits result in sustainable fishing mortality rates that promote stock rebuilding, and as a result, maximize optimal yield. The measures implemented by this final rule also provide additional flexibility for fishing operations in the short-term.

#### *Small Entity Compliance Guide*

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency will publish one or more guides to assist small entities in complying with the rule and will designate such publications as “small entity compliance guides.” The agency will explain the actions a small entity is required to take to comply with a rule or group of rules. As part of

this rulemaking process, a bulletin to permit holders that also serves as a small entity compliance guide was prepared. This final rule and the guide (*i.e.*, bulletin) will be sent via email to the Greater Atlantic Regional Fisheries Office scallop email list and are available on the website at: <https://www.fisheries.noaa.gov/action/framework-adjustment-34-atlantic-sea-scallop-fishery-management-plan>. Hard copies of the guide and this final rule will be available upon request (see **ADDRESSES**).

### **List of Subjects in 50 CFR Part 648**

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: March 25, 2022.

---

Samuel D. Rauch, III

Deputy Assistant Administrator for Regulatory Programs,  
National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is amended as follows:

### **PART 648--FISHERIES OF THE NORTHEASTERN UNITED STATES**

1. The authority citation for part 648 continues to read as follows:

**Authority:** 16 U.S.C. 1801 *et seq.*

#### **Subpart A—General Provisions**

2. In § 648.11:

- a. Revise paragraphs (k)(1) and (k)(2)(i);
- b. Add paragraph (k)(2)(iii);
- c. Revise paragraphs (k)(5) introductory text and (k)(5)(i) introductory text;
- d. Add paragraph (k)(5)(i)(C); and
- e. Revise paragraphs (k)(5)(ii) and (k)(6).

The revisions and additions read as follows:

**§ 648.11 Monitoring coverage.**

\* \* \* \* \*

(k) \* \* \*

(1) *General.* Unless otherwise specified, owners, operators, and/or managers of vessels issued a Federal scallop permit under § 648.4(a)(2), and specified in paragraph (a) of this section, must comply with this section and are jointly and severally responsible for their vessel's compliance with this section. To facilitate the deployment of at-sea observers, all sea scallop vessels issued limited access, LAGC IFQ, and LAGC NGOM permits are required to comply with the additional notification requirements specified in paragraph (k)(2) of this section. When NMFS notifies the vessel owner, operator, and/or manager of any requirement to carry an observer on a specified trip in either an Access Area, Open Area, or NGOM as specified in paragraph (k)(3) of this section, the vessel may not fish for, take, retain, possess, or land any scallops without carrying an observer. Vessels may only embark on a scallop trip without an observer if the vessel owner, operator, and/or manager has been notified that the vessel has received a waiver of the observer requirement for that trip pursuant to paragraphs (k)(3) and (k)(4)(ii) of this section.

(2) \* \* \*

(i) *Limited access vessels.* Limited access vessel owners, operators, or managers shall notify NMFS by telephone not more than 10 days prior to the beginning of any scallop trip of the time, port of departure, open area, NGOM, or specific Sea Scallop Access Area to be fished, and whether fishing as a scallop dredge, scallop trawl, or general category vessel.

\* \* \* \* \*

(iii) *LAGC vessels fishing NGOM.* LAGC IFQ and NGOM vessel owners, operators, or managers must notify the NMFS by telephone by 0001 hr of the Thursday preceding the week (Sunday through Saturday) that they intend to start a NGOM scallop trip and must include the port of departure. NMFS may select up to two trips to be covered by an observer during the

specified week (Sun-Sat). The owner, operator, or vessel manager must notify NMFS of any trip plan changes at least 48 hr prior to vessel departure.

\* \* \* \* \*

(5) *Cost of coverage.* Owners of scallop vessels shall be responsible for paying the cost of the observer for all scallop trips on which an observer is carried onboard the vessel, regardless of whether the vessel lands or sells sea scallops on that trip, and regardless of the availability of set-aside for an increased possession limit or reduced DAS accrual rate. The owners of vessels that carry an observer may be compensated with a reduced DAS accrual rate for limited access open area scallop trips or additional scallop catch per day for limited access Sea Scallop Access Area trips or additional catch per open area or access area trip for LAGC IFQ trips or additional catch per NGOM trip in order to help defray the cost of the observer, under the program specified in §§ 648.53 and 648.60.

(i) Observer service providers shall establish the daily rate for observer coverage on a scallop vessel on an Access Area trip or open area DAS or IFQ trip or NGOM trip consistent with paragraphs (k)(5)(i)(A) and (B), respectively, of this section.

\* \* \* \* \*

(C) *NGOM scallop trips.* For purposes of determining the daily rate in the NGOM for observed scallop trips on a limited access or LAGC vessel, regardless of the status of the industry-funded observer set-aside, a service provider may charge a vessel owner for no more than the time an observer boards a vessel until the vessel disembarks (dock to dock), where “day” is defined as a 24-hr period, and portions of the other days would be pro-rated at an hourly charge (taking the daily rate divided by 24). For example, if a vessel with an observer departs on July 1 at 10 p.m. and lands on July 3 at 1 a.m., the time spent at sea equals 27 hr, which would equate to 1 day and 3 hr.

(ii) NMFS shall determine any reduced DAS accrual rate and the amount of additional pounds of scallops on Sea Scallop Access Area, LAGC IFQ, and NGOM trips based on the

economic conditions of the scallop fishery, as determined by best available information. Vessel owners and observer service providers shall be notified through the Small Entity Compliance Guide of any DAS accrual rate changes and any changes in additional pounds of scallops determined by the Regional Administrator to be necessary. NMFS shall notify vessel owners and observer providers of any adjustments.

\* \* \* \* \*

(6) *Coverage and cost requirements.* When the available set-aside for observer coverage is exhausted, vessels shall still be required to carry an observer as specified in this section, and shall be responsible for paying for the cost of the observer, but shall not be authorized to harvest additional pounds or fish at a reduced DAS accrual rate.

\* \* \* \* \*

#### **Subpart D—Management Measures for the Atlantic Sea Scallop Fishery**

3. In § 648.52, revise paragraph (g) and add paragraph (h) to read as follows:

##### **§ 648.52 Possession and landing limits.**

\* \* \* \* \*

(g) *Possession limit to defray the cost of observers for LAGC IFQ vessels.* An LAGC IFQ vessel with an observer on board may retain, per observed trip, an allowance of scallops in addition to the possession limit, as established by the Regional Administrator in accordance with § 648.53(g), provided the observer set-aside specified in § 648.53(a)(8) has not been fully utilized. For example, if the LAGC IFQ vessel possession limit is 600 lb (272.2 kg) and the additional allowance to defray the cost of an observer is 200 lb/day (90.7 kg), the vessel fishing 24 hours or less could retain up to 800 lb (362.9 kg) when carrying an observer. If a vessel does not land its additional allowance on the trip while carrying an observer, the additional allowance will be added to the vessel's IFQ allocation, and it may land it on a subsequent trip. However, the vessel may not exceed the IFQ trip possession limit as described in § 648.52(a) unless it is actively carrying an observer.

(h) *Possession limit to defray the cost of observers for NGOM vessels.* A NGOM vessel with an observer on board may retain, per observed trip, an allowance of scallops in addition to the possession limit, as established by the Regional Administrator in accordance with § 648.53(g), provided the observer set-aside specified in § 648.53(a)(8) has not been fully utilized. For example, if the NGOM vessel possession limit is 200 lb (90.7 kg) and the additional allowance to defray the cost of an observer is 125 lb (56.7 kg) per trip, the vessel could retain up to 325 lb (147.4 kg) when carrying an observer. The vessel may not exceed the possession limit as described in § 648.52(b) unless it is actively carrying an observer.

4. In § 648.53, revise paragraphs (a)(7) and (9) and (b)(1) and (3) to read as follows:

**§ 648.53 Overfishing limit (OFL), acceptable biological catch (ABC), annual catch limits (ACL), annual catch targets (ACT), annual projected landings (APL), DAS allocations, and individual fishing quotas (IFQ).**

(a) \* \* \*

(7) *Scallop incidental landings target TAL.* The annual incidental landings target TAL is the catch available for harvest for vessels with incidental catch scallop permits. This incidental catch target will be removed from the ABC/ACL defined in paragraph (a)(3) of this section prior to establishing the limited access and LAGC IFQ sub-ACLs and sub-ACTs defined in paragraphs (a)(5) and (6) of this section.

\* \* \* \* \*

(9) *Scallop fishery catch limits.* The following catch limits will be effective for the 2022 and 2023 fishing years:

Table 2 to Paragraph (a)(9)--Scallop Fishery Catch Limits

Catch limits	2022 (mt)	2023 (mt) <sup>1</sup>
OFL	38,271	34,941
ABC/ACL (discards removed)	25,724	23,200
Incidental Landings	23	23
RSA	578	578
Observer Set-Aside	257	232

<b>Catch limits</b>	<b>2022 (mt)</b>	<b>2023 (mt)<sup>1</sup></b>
NGOM Set-Aside	282	221
ACL for fishery	24,865	22,367
Limited Access ACL	23,498	21,137
LAGC Total ACL	1,368	1,230
LAGC IFQ ACL (5 percent of ACL)	1,243	1,118
Limited Access with LAGC IFQ ACL (0.5 percent of ACL)	124	112
Limited Access ACT	20,365	18,318
APL (after set-asides removed)	14,251	(1)
Limited Access APL (94.5 percent of APL)	13,467	(1)
Total IFQ Annual Allocation (5.5 percent of APL) <sup>2</sup>	784	588
LAGC IFQ Annual Allocation (5 percent of APL) <sup>2</sup>	713	534
Limited Access with LAGC IFQ Annual Allocation (0.5 percent of APL) <sup>2</sup>	71	53

<sup>1</sup> The catch limits for the 2023 fishing year are subject to change through a future specifications action or framework adjustment. This includes the setting of an APL for 2023 that will be based on the 2022 annual scallop surveys. The 2023 default allocations for the limited access component are defined for DAS in paragraph (b)(3) of this section and for access areas in § 648.59(b)(3)(i)(B).

<sup>2</sup> As specified in paragraph (a)(6)(iii)(B) of this section, the 2023 IFQ annual allocations are set at 75 percent of the 2022 IFQ Annual Allocations.

(b) \* \* \*

(1) *DAS allocations.* DAS allocations shall be determined by distributing the portion of the limited access APL defined in paragraph (a)(3) of this section, as reduced by access area allocations defined in § 648.59, by applying estimates of open area landings per unit effort (LPUE) projected through the specifications or framework adjustment processes used to set annual allocations and dividing that amount among vessels in the form of DAS calculated.

\* \* \* \* \*

(3) *DAS allocations.* The DAS allocations for limited access scallop vessels for fishing years 2022 and 2023 are as follows:

Table 3 to Paragraph (b)(3) - Scallop Open Area DAS Allocations

<b>Permit category</b>	<b>2022</b>	<b>2023<sup>1</sup></b>
Full-Time	24.00	18.00
Part-Time	9.60	7.20
Occasional	2.00	1.5

<sup>1</sup> The DAS allocations for the 2023 fishing year are subject to change through a future specifications action or framework adjustment. The 2023 DAS allocations are set at 75 percent of the 2022 allocation as a precautionary measure.

\* \* \* \* \*

5. In § 648.59, revise paragraphs (a)(2) and (3), (b)(3) heading, (b)(3)(i)(B), (b)(3)(ii), (c), (e), and (g)(3)(v) to read as follows:

**§ 648.59 Sea Scallop Rotational Area Management Program and Access Area Program requirements.**

(a) \* \* \*

(2) *Transiting a Scallop Rotational Closed Area.* No vessel possessing scallops may enter or be in the area(s) specified in this section when those areas are closed, as specified through the specifications or framework adjustment processes defined in § 648.55, unless the vessel is transiting the area and the vessel's fishing gear is stowed and not available for immediate use as defined in § 648.2, or there is a compelling safety reason to be in such areas without such gear being stowed. A vessel may only transit the Closed Area II-East Scallop Rotational Area, as defined in § 648.60(d), if there is a compelling safety reason for transiting the area and the vessel's fishing gear is stowed and not available for immediate use as defined in § 648.2.

(3) *Transiting a Scallop Rotational Access Area.* Any sea scallop vessel that has not declared a trip into the Scallop Access Area Program may enter a Scallop Access Area, and possess scallops not caught in the Scallop Access Areas, for transiting purposes only, provided the vessel's fishing gear is stowed and not available for immediate use as defined in § 648.2. Any scallop vessel that has declared a trip into the Scallop Area Access Program may not enter or be in another Scallop Access Area on the same trip except such vessel may transit another Scallop Access Area provided its gear is stowed and not available for immediate use as defined in § 648.2, or there is a compelling safety reason to be in such areas without such gear being stowed. A vessel may only transit the Closed Area II Scallop Rotational Area, as defined in §

648.60(b)(1), if there is a compelling safety reason for transiting the area and the vessel's fishing gear is stowed and not available for immediate use as defined in § 648.2.

(b) \* \* \*

(3) *Scallop Rotational Access Area allocations* - (i) \* \* \*

(B) The following access area allocations and possession limits for limited access vessels shall be effective for the 2022 and 2023 fishing years:

(1) *Full-time vessels.* (i) For a full-time limited access vessel, the possession limit and allocations are:

Table 1 to Paragraph (b)(3)(i)(B)(1)(i)

<b>Rotational access area</b>	<b>Scallop possession limit</b>	<b>2022 Scallop allocation</b>	<b>2023 Scallop allocation (default)</b>
Closed Area II	15,000 lb (6,804 kg) per trip	30,000 lb (13,608 kg)	15,000 lb (6,804 kg).
Nantucket Lightship-South-Deep	15,000 lb (6,804 kg) per trip	15,000 lb (6,804 kg)	0 lb (0 kg).
Total		45,000 lb (20,412 kg)	15,000 lb (6,804 kg).

(ii) [Reserved]

(2) *Part-time vessels.* (i) For a part-time limited access vessel, the possession limit and allocations are as follows:

Table 2 to Paragraph (b)(3)(i)(B)(2)(i)

<b>Rotational access area</b>	<b>Scallop possession limit</b>	<b>2022 Scallop allocation</b>	<b>2023 Scallop allocation (default)</b>
Closed Area II	9,000 lb (4,082 kg) per trip	9,000 lb (4,082 kg)	9,000 lb (4,082 kg)
Nantucket Lightship-South-Deep	9,000 lb (4,082 kg) per trip	9,000 lb (4,082 kg)	0 lb (0 kg)
Total		18,000 lb (8,165 kg)	9,000 lb (4,082 kg)

(ii) [Reserved]

(3) *Occasional limited access vessels.* (i) For the 2022 fishing year only, an occasional limited access vessel is allocated 3,750 lb (1,701 kg) of scallops with a trip possession

limit at 3,750 lb of scallops per trip (1,701 kg per trip). Occasional limited access vessels may harvest the 3,750 lb (1,701 kg) allocation from either the Nantucket Lightship-South-Deep or Closed Area II Access Area.

(ii) For the 2023 fishing year, occasional limited access vessels are allocated 1,250 lb (567 kg) of scallops in Closed Area II Access Area with a trip possession limit of 1,250 lb of scallops per trip (567 kg per trip).

(ii) *Limited access vessels' one-for-one area access allocation exchanges* - (A) *Full-time limited access vessels.* (1) The owner of a vessel issued a full-time limited access scallop permit may exchange unharvested scallop pounds allocated into one access area for another vessel's unharvested scallop pounds allocated into another scallop access area. These exchanges may be made only in 7,500-lb (3,402-kg) increments. For example, a full-time vessel may exchange 7,500 lb (3,402 kg) from one access area for 7,500 lb (3,402 kg) allocated to another full-time vessel for another access area. Further, a full-time vessel may exchange 15,000 lb (6,804 kg) from one access area for 15,000 lb (6,804 kg) allocated to another full-time vessel for another access area. In addition, these exchanges may be made only between vessels with the same permit category: A full-time vessel may not exchange allocations with a part-time vessel, and vice versa. Vessel owners must request these exchanges by submitting a completed Access Area Allocation Exchange Form at least 15 days before the date on which the applicant desires the exchange to be effective. Exchange forms are available from the Regional Administrator upon request. Each vessel owner involved in an exchange is required to submit a completed Access Area Allocation Form. The Regional Administrator shall review the records for each vessel to confirm that each vessel has enough unharvested allocation remaining in a given access area to exchange. The exchange is not effective until the vessel owner(s) receive a confirmation in writing from the Regional Administrator that the allocation exchange has been made effective. A vessel owner may exchange equal allocations in 7,500-lb (3,402-kg) increments between two or more vessels of the same permit category under his/her ownership. A vessel owner holding a

Confirmation of Permit History is not eligible to exchange allocations between another vessel and the vessel for which a Confirmation of Permit History has been issued.

(2) [Reserved]

(B) *Part-time limited access vessels.* The owner of a vessel issued a part-time limited access scallop permit may exchange unharvested scallop pounds allocated into one access area for another part-time vessel's unharvested scallop pounds allocated into another scallop access area. These exchanges may be made only for the amount of the current trip possession limit, as specified in paragraph (b)(3)(i)(B)(2) of this section. For example, if the access area trip possession limit for part-time limited access vessels is 9,000 lb (4,082 kg), a part-time limited access vessel may exchange no more or less than 9,000 lb (4,082 kg), from one access area for no more or less than 9,000 lb (4,082 kg) allocated to another vessel for another access area. In addition, these exchanges may be made only between vessels with the same permit category: A full-time limited access vessel may not exchange allocations with a part-time vessel, and vice versa. Vessel owners must request these exchanges by submitting a completed Access Area Allocation Exchange Form at least 15 days before the date on which the applicant desires the exchange to be effective. Exchange forms are available from the Regional Administrator upon request. Each vessel owner involved in an exchange is required to submit a completed Access Area Allocation Form. The Regional Administrator shall review the records for each vessel to confirm that each vessel has enough unharvested allocation remaining in a given access area to exchange. The exchange is not effective until the vessel owner(s) receive a confirmation in writing from the Regional Administrator that the allocation exchange has been made effective. A part-time limited access vessel owner may exchange equal allocations up to the current possession limit between two or more vessels under his/her ownership. A vessel owner holding a Confirmation of Permit History is not eligible to exchange allocations between another vessel and the vessel for which a Confirmation of Permit History has been issued.

\* \* \* \* \*

(c) *Scallop Access Area scallop allocation carryover.* With the exception of vessels that held a Confirmation of Permit History as described in § 648.4(a)(2)(i)(J) for the entire fishing year preceding the carry-over year, a limited access scallop vessel may fish any unharvested Scallop Access Area allocation from a given fishing year within the first 60 days of the subsequent fishing year if the Scallop Access Area is open, unless otherwise specified in this section. However, the vessel may not exceed the Scallop Rotational Area trip possession limit. For example, if a full-time vessel has 7,000 lb (3,175 kg) remaining in the Closed Area II Access Area at the end of fishing year 2021, that vessel may harvest those 7,000 lb (3,175 kg) during the first 60 days that the Closed Area II Access Area is open in fishing year 2022 (April 1, 2022 through May 30, 2023).

\* \* \* \* \*

(e) *Sea Scallop Research Set-Aside Harvest in Scallop Access Areas.* Unless otherwise specified, RSA may be harvested in any access area that is open in a given fishing year, as specified through a specifications action or framework adjustment and pursuant to § 648.56. The amount of scallops that can be harvested in each access area by vessels participating in approved RSA projects shall be determined through the RSA application review and approval process. The access areas open for RSA harvest for fishing years 2022 and 2023 are:

(1) 2022: Nantucket Lightship-South-Deep, Closed Area I, and Closed Area II Scallop Rotational Areas.

(i) For fishing year 2022, vessels may only harvest RSA compensation from Closed Area II from June 1, 2022 through August 14, 2022.

(ii) [Reserved]

(2) 2023: No access areas.

\* \* \* \* \*

(g) \* \* \*

(3) \* \* \*

(v) *LAGC IFQ access area allocations*. The following LAGC IFQ access area trip allocations will be effective for the 2022 and 2023 fishing years:

Table 3 to Paragraph (g)(3)(v)

Scallop access area	2022	2023 <sup>1</sup>
Closed Area I	714	357
Nantucket Lightship-South-Deep	357	0
Total	1,071	357

<sup>1</sup> The LAGC IFQ access area trip allocations for the 2023 fishing year are subject to change through a future specifications action or framework adjustment.

\* \* \* \* \*

6. In § 648.60:

- a. Remove and reserve paragraph (b)(2)(ii);
- b. Redesignate table 7 to paragraph (g) and table 8 to paragraph (h) as table 6 to paragraph (g) and table 7 to paragraph (h); and
- c. Add paragraphs (i) and (j).

The additions read as follows:

**§ 648.60 Sea Scallop Rotational Areas.**

\* \* \* \* \*

(i) *Nantucket Lightship-West Scallop Rotational Area*. The Nantucket Lightship-West Scallop Rotational Area is defined by straight lines connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request):

Table 8 to Paragraph (i)

Point	N latitude	W longitude
NLSW1	40° 43.44'	70° 20'
NLSW2	40° 43.44'	70° 00'
NLSW3	40° 43.44'	69° 30'
NLSW4	40° 20'	69° 30'
NLSW5	40° 20'	70° 00'
NLSW6	40° 26.63'	70° 20'
NLSW1	40° 43.44'	70° 20'

(j) *New York Bight Scallop Rotational Area*. The New York Bight Scallop Rotational Area is defined by straight lines connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request):

Table 9 to Paragraph (j)

Point	N latitude	W longitude
NYB1	40°00'	73°20'
NYB2	40°00'	72°30'
NYB3	39°20'	72°30'
NYB4	39°20'	73°20'
NYB1	40°00'	73°20'

**§ 648.60 [Amended]**

7. Effective May 31, 2022, further amend § 648.60 as follows:

- a. Remove and reserve paragraph (a); and
- b. Redesignate table 2 to paragraph (b)(1), table 3 to paragraph (c), table 4 to paragraph (d), table 5 to paragraph (e), table 6 to paragraph (g), table 7 to paragraph (h), table 8 to paragraph (i), and table 9 to paragraph (j) as table 1 to paragraph (b)(1), table 2 to paragraph (c), table 3 to paragraph (d), table 4 to paragraph (e), table 5 to paragraph (g), table 6 to paragraph (h), table 7 to paragraph (i), and table 8 to paragraph (j).

8. In § 648.62:

- a. Revise paragraphs (a)(2) and (3);
- b. Remove and reserve paragraph (a)(4);
- c. Revise paragraphs (a)(5) and (b); and
- d. Remove paragraph (e).

The revisions read as follows:

**§ 648.62 Northern Gulf of Maine (NGOM) Management Program.**

(a) \* \* \*

(2) Scallop landings by vessels issued NGOM permits shall be deducted from the NGOM Set-Aside, as defined in § 648.53(a)(8)(iii), and specified in paragraph (b)(1) of this section, when vessels fished all or part of a trip in the Federal waters portion of the NGOM. If a vessel with a NGOM scallop permit fishes exclusively in state waters within the NGOM, scallop landings from those trips will not be deducted from the NGOM Set-Aside.

(3) Scallop landings by all vessels issued LAGC IFQ scallop permits and fishing in the NGOM scallop management area against the NGOM Set-Aside, as defined in § 648.53(a)(8)(iii), shall be deducted from NGOM Set-Aside specified in paragraph (b)(1) of this section. Scallop landings by LAGC IFQ scallop vessels fishing in the NGOM scallop management area shall be deducted from their respective scallop IFQs. Landings by vessels with incidental permits shall not be deducted from the NGOM total allowable catch specified in paragraph (b) of this section.

\* \* \* \* \*

(5) Scallop landings by all vessels issued scallop permits and fishing in the NGOM under the scallop RSA program (as specified in § 648.56) shall be deducted from the overall RSA allocation.

(b) *NGOM Scallop Fishery landings limits.* (1) The following landings limits will be effective for the NGOM for the 2022 and 2023 fishing years.

Table 1 to Paragraph (b)(1)

<b>Landings Limits</b>	<b>2022</b>	<b>2023<sup>(1)</sup></b>
NGOM TAL	661,387 lb (300,000 kg)	504,384 (228,785 kg)
1 percent NGOM ABC for Observers	15,080 lb (6,840 kg)	13,404 (6,080 kg)
RSA Contribution	25,000 lb (11,340 kg)	25,000 lb (11,340 kg)
NGOM Set-Aside	621,307 lb (281,820 kg)	465,980 lb (211,365 kg)
NGOM APL	0 lb (0 kg)	-

<sup>1</sup> The landings limits for the 2023 fishing year are subject to change through a future specifications action or framework adjustment.

(2) Unless a vessel has fished for scallops outside of the NGOM scallop management area and is transiting the NGOM scallop management area with all fishing gear stowed and not

available for immediate use as defined in § 648.2, no vessel issued an LAGC scallop permit pursuant to § 648.4(a)(2) may possess, retain, or land scallops in the NGOM scallop management area once the Regional Administrator has provided notification in the **Federal Register** that the NGOM Set-Aside in accordance with paragraph (b)(1) of this section has been reached, unless the vessel is participating in the scallop RSA program as specified in § 648.56 and has been allocated NGOM RSA pounds. Once the NGOM Set-Aside is reached, a vessel issued a NGOM permit may no longer declare a state-only NGOM scallop trip and fish for scallops exclusively in state waters within the NGOM, unless participating in the state waters exemption program as specified in § 648.54. A vessel that has not been issued a Federal scallop permit that fishes exclusively in state waters is not subject to the closure of the NGOM scallop management area.

(3) If the NGOM Set-Aside is exceeded, the amount of NGOM scallop landings in excess of the NGOM Set-Aside specified in paragraph (b)(1) of this section shall be deducted from the NGOM Set-Aside for the subsequent fishing year, or, as soon as practicable, once scallop landings data for the NGOM management area is available.

\* \* \* \* \*

[FR Doc. 2022-06736 Filed: 3/29/2022 8:45 am; Publication Date: 3/30/2022]